

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF TEXAS, WACO DIVISION**

**STATE FARM LLOYDS AS SUBROGEE OF
FREDERICK AND KAY SIEVERS, Plaintiff**

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Case No. 6:20-CV-206

V.

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**HAIER US APPLIANCE SOLUTIONS, INC. D/B/A
GE APPLIANCES AND MERCURY PLASTICS LLC
Defendants**

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Mercury Plastics LLC's Notice of Removal

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, Defendant Mercury Plastics LLC (“Mercury”) and, pursuant to 28 USC §§ 1332, 1441, and 1446, hereby files its Notice of Removal, removing civil action *State Farm Lloyds a/s/o Frederick and Kay Sievers v. Haier US Appliance Solutions, Inc. d/b/a GE Appliances and Mercury Plastics, LLC* from the 66th Judicial District Court of Hill County, Texas, to the United States District Court for the Western District of Texas, Waco Division.

I. INTRODUCTION AND SUMMARY

1. Plaintiff State Farm Lloyds a/s/o Frederick and Kay Sievers (“Plaintiff”) is a Texas company with its principal place of business in Illinois. Defendant Haier US Appliance Solutions, Inc. d/b/a GE Appliances (“GE”) is a Delaware corporation with its principal place of business in Kentucky. Defendant Mercury, alongside its individual members, is an Ohio limited liability company. The amount in controversy in this matter exceeds \$75,000. All defendants consent to this notice of removal. Therefore, this matter

should be removed to the Western District of Texas pursuant to 28 USC §§ 1332, 1441, and 1446.

II. BACKGROUND

2. On August 8, 2019, Plaintiff filed its Original Petition against GE in the 66th Judicial District of Hill County, Texas, in the civil action styled *State Farm Lloyds a/s/o Frederick and Kay Sievers v. Haier US Appliance Solutions, Inc. d/b/a GE Appliances* and identified as Cause No. CV-536-19DC (“State Court Action”). *See Exhibit 1, Plaintiff’s Original Petition.* On November 14, 2019, GE filed its Original Answer. *See Exhibit 2, Original Answer of GE.*

3. On February 13, 2020, Plaintiff filed its First Amended Petition, adding Mercury as a defendant. *See Exhibit 3, Plaintiff’s First Amended Petition.* Plaintiff’s First Amended Petition alleges that on March 3, 2018, a water supply line manufactured by GE and/or Mercury leaked, damaging Plaintiffs’ property. Plaintiff asserts claims for strict liability, negligence, and breach of express and implied warranties. *See id.*

4. Mercury was served with the First Amended Petition on February 21, 2020. *See Exhibit 3, Citation of Service, First Amended Petition.* Mercury filed its answer on March 13, 2020. *See Exhibit 4, Original Answer of Mercury.*

5. This action could have been originally filed in this Court pursuant to 28 U.S.C. §§ 1332 and 1337 because there is complete diversity between Plaintiff, GE, and Mercury, and the amount in controversy exceeds \$75,000, exclusive of interest and costs.

6. This Notice of Removal is timely filed. Pursuant to 28 U.S.C. § 1446(b), the

Notice of Removal is filed within thirty (30) days of receipt by Mercury of the initial pleading setting forth the claim for relief upon which such action or proceeding is based.

See Exhibit 3, Citation of Service, First Amended Petition.

III. DIVERSITY JURISDICTION EXISTS

7. Complete diversity of citizenship exists between the parties. Plaintiff is a Texas company with its principal place of business in Illinois. **See Exhibit 7, State Farm Articles of Incorporation; Exhibit 8, State Farm Articles of Amendment.**

8. Mercury, alongside its individual members, is a citizen of Ohio. According to Plaintiff's Petition, Mercury is a foreign limited liability company. **See Exhibit 3, Plaintiff's First Amended Petition, ¶3.** The Petition does not allege that Mercury's principal place of business is in Texas or Illinois. Mercury, alongside its individual members, is not, and was not at the time of the filing, a citizen of the State of Texas or Illinois within the meaning of the Acts of Congress relating to the removal of actions. 28 U.S.C. § 1332(c)(1).

9. GE is a Delaware corporation with its principal place of business in Kentucky. **See Exhibit 9, GE Application for Registration.** According to Plaintiff's Petition, GE is a foreign corporation. **See Exhibit 3, Plaintiff's First Amended Petition, ¶2.** The Petition does not allege that GE's principal place of business is in Texas or Illinois. GE is not, and was not at the time of the filing, a citizen of the State of Texas or Illinois within the meaning of the Acts of Congress relating to the removal of actions. 28 U.S.C. § 1332(c)(1).

IV. AMOUNT IN CONTROVERSY

10. Plaintiffs' First Amended Petition alleges damages in excess of \$100,000.00. *See Exhibit 3, Plaintiff's First Amended Petition, ¶7.* Thus, Plaintiff's claims for damages exceed the requisite amount in controversy for purposes of diversity jurisdiction under 28 U.S.C. § 1332(a).

V. CONSENT

11. Pursuant to 28 U.S.C. 1446(b)(2)(a), GE consents to this removal. *See Exhibit 10, GE Consent to Removal.*

VI. JURY DEMAND

12. No jury demand has been made in this case.

VII. CONCLUSION

13. This Court has original jurisdiction over this action pursuant to 28 U.S.C. § 1332(a) because the amount in controversy, exclusive of interest and costs, exceeds the sum or value of \$75,000.00 and is between citizens of different states. All defendants consent to this removal.

14. A copy of this Notice of Removal is being served upon Plaintiffs. A Notice of Filing Notice of Removal will be filed with the Clerk presiding over the State Court Action.

VIII. EXHIBITS

15. In accordance with 28 U.S.C. § 1446(A), attached as exhibits hereto are:

Exhibit Number	Description
1.	Plaintiff's Original Petition
2.	Original Answer of GE
3.	Plaintiff's First Amended Petition
4.	Original Answer of Mercury
5.	List of All Counsel
6.	State Court Docket Sheet
7.	State Farm Articles of Incorporation
8.	State Farm Articles of Amendment
9.	GE Application for Registration
10.	GE Consent to Removal

IX. PRAYER

WHEREFORE, Mercury gives notice that the State Court Action is removed to the United States District Court for the Western District of Texas, Waco Division, and requests that this Court retain jurisdiction for all further proceedings.

Respectfully submitted,

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By: /s/ Joseph Loiacono II
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 ATTORNEYS FOR MERCURY PLASTICS LLC

CERTIFICATE OF CONFERENCE

I hereby certify that on March 19, 2020, my office conferred with all counsel of record in regard to the filing of this notice and they are unopposed.

Certified to this 20th day of March 2020.

/s/ Joseph Loiacono II
Joseph Loiacono II

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the above and foregoing document has been forwarded to all counsel of record this 20th day of March 2020.

/s/ Joseph Loiacono II
Joseph Loiacono II

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<u>mdeaton@munsch.com</u> J. Mark Deaton Munsch, Hardt, Kopf, & Harr, P.C. 700 Milan Street, Suite 2700 Houston, TX 77002	Attorney for Defendant Haier US Appliance Solutions, Inc. d/b/a GE Appliances